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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,966	07/31/2003	Uwe Klaiber	076326-0261	1848
22428	7590	03/28/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			ILAN, RUTH	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,966

Applicant(s)

KLAIBER ET AL.

Examiner

Ruth Ilan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/31/03, 1/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The disclosure is objected to because of the following informalities: It appears that based on the drawings and specification, in line 10 of paragraph [0029] "unrolled" should be "rolled". Also, in line 2 of paragraph [0030], "unrolled" should be "rolled".

Appropriate correction is required.

Specification objections.

Claim Objections

3. Claims 2 and 11 are objected to because of the following informalities: In claim 2, line 3, before "faces" , "is" should be deleted. In claim 11, line 1, after "lateral", "wall" should be inserted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3-7 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "a partially" rolled up condition. The Examiner suggests changing this language to read "at least partially" rolled up condition, because "partially" in claim 1 renders claim 4 unclear. Claim 1 appears to be

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generic to embodiments that include both accordion pleated and rolled (i.e. partially rolled) and entirely rolled, since for instance claim 4 depends from 1 and includes only rolling, not pleating. As such, in light of other limitations in claim 4, "partially" in claim 1 is confusing. Regarding claims 3, 5, 6, claim 3 recites "at a level in the vicinity of a head of a passenger". Claims 5 and 6 recite "at the level of the passenger's head". A claim may be rendered indefinite by reference to an object that is variable. See MPEP 2173.05 (b). For example, the Board has held that a limitation in a claim to a bicycle that recited "said front and rear wheels so spaced as to give a wheelbase that is between 58 percent and 75 percent of the height of the rider that the bicycle was designed for" was indefinite because the relationship of parts was not based on any known standard for sizing a bicycle to a rider, but on a rider of unspecified build. *Ex parte Brummer*, 12 USPQ2d 1653 (Bd. Pat. App. & Inter. 1989). In the instance case, no standard rider has been defined, and the height has been rendered indefinite. In claim 7, line 2, "its envelope" lacks antecedent basis.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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7. Claims 1-3, and 5-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Nussdor (US 2002/0158451 A1.) Nussdor teaches an air bag stored in an at least partially rolled up condition in the area of the roof rail (30) of a vehicle. The air bag is inflated by a gas generator (inherently) by means of a fill tube (18) and unrolls next to a side window (32.) The air bag is rolled so that the outer side of the roll faces the occupant. Regarding claim 7, the air bag also includes an accordion pleat (24.) Regarding claims 3, 5 and 6, as best understood since the accordion pleat pushes open the flap (see paragraph [0005], [0012]) and then the rolled portion subsequently unrolls, there is at least an occupant whose head is at the height of the unroll. Regarding claim 8, as broadly claimed, a module sheath (16) surrounds the air bag.

Allowable Subject Matter

8. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sonnenberg et al. Bakhsh et al., Terbu et al., Yamaji et al. teach rolled air bags of interest.

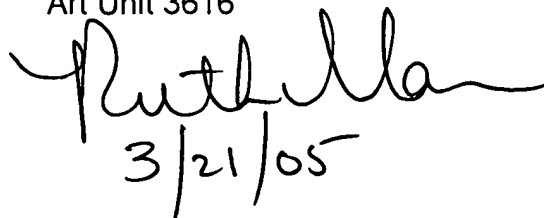
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 703-306-5956. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RI
3/21/05

Ruth Ilan
Primary Examiner
Art Unit 3616



3/21/05